

REMARKS

By this amendment, new claims 61-66 are added. Claims 49-66 are pending. Claims 61-66 are drawn to similar subject matter as claims 49, 53, 55, 59 and 60. The new claims are supported by the entire specification, the original claims, appendix A and the drawings including figures 7A - 7H and 8A-8C. No new matter is added.

Independent claim 49 was amended to eliminate four occurrences of the word "wherein," and for clarification.

Reconsideration and allowance of the pending claims in view of the above amendments and the remarks that follow are respectfully requested.

Drawings

Applicant thanks the Examiner for acceptance of the drawings.

Claim Rejections

Claims 49-60 are rejected under 35 U.S.C. §103(a) as being unpatentable over Orr et al. (US Publication 2003/0061012). Applicant respectfully traverses the rejections.

To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991) and *MPEP* § 2142. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Orr fails to render the claims obvious.

Generally, the Orr reference is directed to assisting in documenting a plan not implementing a plan. The Orr abstract states "The present invention relates to a method of providing or updating a digital comprehensive plan" Independent claim 49 relates to implementing a land-use plan and claims a "builder service provider trade specification chart that includes data on the services to be provided by a builder." Orr does not disclose a trade specification chart, let alone a builder trade specification chart. On this basis alone, the claim must be allowed.

On page 10 of the office action, the Examiner states that “Orr may or may not disclose the following:” and thereafter lists portions of independent claim 49 including : “direct link . . . ,” “indirect link . . . ,” “direct and indirect links between and among the various entities are identified . . . ,” and data representing a city infrastructure . . .” Applicant respectfully submits that Orr does not disclose the portion of the claim the Examiner listed on page 10 of the Office Action. For example, Orr does not disclose indirect links, let alone indirect links stored in a relational database. In fact, the Examiner has raised no argument with regard to indirect links. Thus, the current §103 obvious rejection of independent claim 49 is incomplete.

With regard to direct links, the examiner takes the position on page 10 that “it would have been obvious to one of ordinary skill in the art to define links or relationships between entities and/or between entities and physical space and to store that data in a database.” However, the Examiner provides no citations or references to support this position. Applicant respectfully contend that the Examiner has made an improper obviousness rejection without a reference and traverses this rejection. Applicant requests a specific citation to a reference if this part of the rejection is not withdrawn. Specifically, pursuant to M.P.E.P. §2144.03, Applicants respectfully request that the Examiner produce a valid and relevant prior art reference showing the recited limitation and provide a motivation for one of ordinary skill in the art to combine the reference with Orr. If a reference cannot be produced, Applicants respectfully request that claims 49 be allowed to issue. In any event, the Examiner has not cited any motivation to combine this alleged “reference” with the claimed elements.

Finally, applicant respectfully traverses the Examiners rejections on page 6 of the Office Action. First, an electronic spreadsheet cannot anticipate the claimed features. Second, no motivation to combine Orr with an electronic spreadsheet was recited by the Examiner. Third, neither a spreadsheet nor Orr “classifies quality of service for a category of service.” Fourth, Applicants respectfully contend that the Examiner has made improper use of the doctrine of Official Notice and traverses this rejection. Pursuant to M.P.E.P. §2144.03, Applicants respectfully request that the Examiner produce a valid and relevant prior art reference showing the recited limitation and the Examiner provide a specific motivation to combine the references. If a reference cannot be produced, Applicants respectfully request that claim 49 be allowed to issue.

In sum the claims cannot be obvious in light of Orr.

The dependent claims are all allowable for at least the reasons stated above and the additional reasons stated below.

As to dependent claim 53, the rejection is incomplete as it does not address the items in the claim. Specifically, the language in the claim before the wherein clause is not addressed by the rejection. Therefore, this claim was allowable.

As to dependent claim 55, the rejection is incomplete in that it fails to address the dependent claim language. Therefore, this claim was allowable.

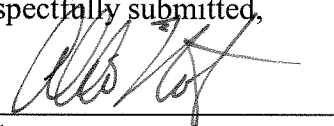
As to dependent claims 59 and 60, the rejection is incomplete in that it fails to address the entire phrase "the tangible computer readable medium further comprises a computer software instruction set for performing an economic selection" (emphasis added). These two claims were allowable.

New claims 61-66 are similarly allowable.

In view of the above remarks, Applicant respectfully submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested. Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Date: **November 23, 2010**

Respectfully submitted,



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